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SUBJECT: SDIF CHIEF REVIEWS A SUCCESSFUL BUT TURBULENT YEAR

REF: A. ISTANBUL 43

[1B. ISTANBUL 644](#)

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[¶1. \(SBU\) Summary:](#) In a wide-ranging conversation with visiting Ankara Econ Counselor and Istanbul P/E Chief, the Chairman of Turkey's Savings Deposit Insurance Fund (SDIF), Ahmet Erturk, reviewed his organization's progress in recouping Turkey's losses from the 2001 banking crisis. Noting that the fund this year for the first time made a significant payment to the Turkish Treasury, he expressed hope it ultimately would collect up to 10 billion USD. On specific cases, Erturk predicted that the fund will soon reach a settlement with Motorola regarding its outstanding receivable from Telsim (the Uzan-owned cellphone operator the TMSF has seized and will sell on December 13). Regarding the situation of American citizen Clifford Polley (reftels), who has been subject to a TMSF travel ban since 2002, he noted that a proposal permitting him to travel will soon be presented to the TMSF board. Erturk conceded that his organization wields extraordinary and almost unfettered power, but argued that "extraordinary circumstances require extraordinary solutions." He concurred with the judgment of many bankers here that institutionalization of such powers in Turkey's new banking act is not a long-range solution, and that these provisions should be revisited. End Summary.

[¶2. \(SBU\) A Busy Agenda:](#) Erturk noted that he has been much preoccupied of late with the recently concluded non-performing loan sale (NPL) won by a partnership between Lehmann Brothers and Turkey's Finansbank. He stressed that the sale is close to the final phase, though he predicted that there will be legal disputes and challenges. He added that the fund has already turned over 1.5 billion USD to the Turkish Treasury, and will focus in coming months on selling Uzan family assets to recoup losses from the major fraud that was perpetrated at the family's Imar Bank. The assets are divided into three groups: the media group (with 10 sale units: two television stations, seven radio stations, and "Star" newspaper), the cement factories (nine in total), and Telsim, which will be sold on December 13. Questioned about a letter the Consulate and Embassy recently received from the Uzan's lawyer warning U.S. nationals away from the planned sales, Erturk was dismissive, pointing out that the Fund has been taken to court 200-300 times and has yet to lose.

[¶3. \(SBU\) A Motorola Deal:](#) Erturk noted that the fund is in intense negotiations with Motorola to settle its multi-billion dollar claim against Telsim (resulting from a deal in which the Uzans defrauded Motorola out of 2.2 billion USD). He conceded that the negotiation has taken a long time, and said that the problem has centered not on the financial side but on the question of a payment guarantee from the Turkish government in the event the sale of Telsim were overturned, given that the payment was to come out of sale proceeds for the company. Erturk said the two sides have agreed to change the model: Motorola will still receive 20 percent of the sale price of Telsim (at least 500 million USD), but it will receive a major portion in advance, so the guarantee issue can be set aside. Erturk termed the proposed settlement a good transaction for both the GOT and Motorola: the fund will sell a "clean" asset, resulting in a higher valuation, while Motorola will avoid a long legal labyrinth. He added that the fund's agreement with Nokia (which was similarly defrauded) has already been finalized. That company will receive 7.5 percent of the sale proceeds, and may request renegotiation to match Motorola's payment terms, if it finds them more favorable.

[¶4. \(SBU\) Law and Power:](#) Erturk conceded that his organization has unmatched (and almost untrammeled) authority, but argued that the special situation resulting from the 2001 banking crisis and other banking abuses such as Imar Bank required such an approach. Without such power, he stressed, the Fund would have been unable to recover any assets, as it could not have "followed the money." Regarding the legal situation of Demirbank and Kentbank, the takeovers of which were later overturned by the Council of State (Danistay), Erturk noted that the SDIF is not a party to the case, rather the Turkish Banking authority (BDDK) was the defendant.

15. (SBU) Suzer Group: When asked his response to the argument that the Suzer Group has been advancing in Washington that the Turkish government has failed to respect the rule of law in refusing to return Kentbank to it in accord with the 2004 Danistay decision, Erturk characterized the decision as "devoid of meaning." If it had been taken immediately after the takeover, he argued, it could have been implemented, but coming after passage of several years, and after the bank had been merged into other institutions, it could not be carried out. Instead, he suggested, the Suzers should pursue a case for monetary damages. He predicted, however, that given the government's expenditure of 2 billion USD to settle claims against Kentbank, the court would likely find there was no equity in it. As an aside, Erturk suggested that the Suzers' concern about legalities is not unreserved: another court has ruled that its Suzer Plaza Building housing the Ritz Carlton should be torn down-- a decision the family is obviously not eager to see carried out. (Note: Erturk appears to have been referring to a Danistay decision that the permit for the building was improperly granted. A separate case by Istanbul Technical University seeking the demolition of the structure also is working its way through the courts. End Note.) Erturk added that the Fund has also had difficulty with the Suzers in that they have "stolen" assets by moving them offshore where they "cannot be followed."

16. (SBU) Banking Law: Regarding Turkey's new banking law, Erturk concurred with concerns we have heard from some bankers that the new banking law goes too far in making permanent the SDIF's power and criminalizing normal banking activity (under the draft, bankers are personally liable for twenty years for any bad loans they approve, and they and their relatives can be pursued legally to recover damages). He said "they are right" in arguing that the provisions are a disincentive to banking, and added "there are articles in the law I would not accept." He disputed the suggestion that the SDIF is responsible for the provisions, however, attributing them to the will of the Turkish Parliament. As a result, the law makes no distinction between the "normal risk taking" that is involved in banking and fraudulent activities. The provisions, he concluded, should be revised in the near future.

17. (SBU) Clifford Polley: Erturk indicated that he has received Congressional correspondence on the case of Clifford Polley, who has been under a SDIF travel ban since 2002 as a result of his brief service on the board of his father-in-Law's (Dinc Bilgin's) Etibank, which was taken over during the crisis. Erturk believes the matter will soon be resolved, and said he has directed the drafting of a recommendation to the SDIF board permitting Polley to travel. It could be considered as early as September 16, he said, if the paperwork in the file is complete. (Note: Consulate subsequently arranged a meeting between Polley and the Fund on September 14 to ensure that all necessary material has been presented. End Note.) As an aside, Erturk noted that collections from Bilgin's Media Holding Group have been significant, and that most of the group's debt to the government should ultimately be recovered.

18. (SBU) Assistance: In closing, Erturk expressed appreciation for the Treasury Department's continuing technical assistance to the Fund, which he characterized as extremely helpful to the Fund's successful completion of its initial sale of non-performing loans. He noted that cooperation with U.S. entities is continuing on other fronts, as the Fund works with the FDIC in its efforts to implement a new system of deposit insurance that charges premiums to banks based on their risk profile. The SDIF will be able to focus increasingly on this core function, he predicted, as it wraps up its collection activities.

19. (SBU) Comment: Erturk was relaxed and open during the meeting, divulging more on the Motorola case, for instance, than he had in previous sessions. As his continued media blitz also demonstrates, he appears comfortable with what the Fund has accomplished to date, and believes he has a good story to tell the public. End Comment.
JONES